

Circuit Court of the U. States
May Term 1839.

Harrison Gray & others in Equity
vs.

John B. Russell & others.

Master's Report.

And now Bro. S. Curtis, Master in Chancery, to whom the said cause was referred under the annexed order of the last Term of this Court, having heard the several parties by their counsel from day to day, makes his Report of the several matters in the said order referred, and of the evidence produced before him under the separate allegations in the Complainant's Bill, as follows:

I. "That the Defendants' Grammar adopts the same Title as the Complainant's":— and under the said allegation, the following Title pages are offered in evidence.

Complainant's

Adam's

Latin Grammar
with some improvements

and the
following additions;

Rules for the right pronunciation
of the

Latin Language;

a metrical Key to the odes of Horace,

a List of Latin Authors arranged according
to the different ages of Roman Literature;

Tables

showing the value of the various coins
weights and measures used among the
Romans.

By Benjamin A. Gould
Master of the Public Latin School of Boston.

It must be remembered that if the grammar be the
first book put into the learner's hands, it should
also be the last to leave them.

Paft to Bachmann's Greek Gram.

This Edition is adopted by the University at Cam-
bridge Mass. and is recommended to the use of
those who are preparing for that Seminary.

Defendants.

Adam's

" Latin Grammar;

with numerous

Additions and Improvements.

Designed to aid

The more advanced Student by further eluci-
dations

of the
Latin Classics.

By C. D. Cleveland S. M.

Late Professor of the Latin Language
and Literature in the University
of the City of New York."

1836

II. That Dfd's Grammar adopts the plan of Compt's, in omitting the whole of the original work relating to English Grammar, omitting precisely the same passages throughout, particularly at pages 16, 18, 68, 69, 71, 72, 95, 122, 124, 224, 260, 285, 297, 305, 310, of Dfd's book.

Complainant's evidence.

It is proved that on each of the said pages in Dfd's work there is an entire omission of all matter relating specifically to English Grammar; that the same omissions had been previously made by the Compt's; and that in former editions of Adams, there was considerable matter relating to English Grammar.

- Reply -

It is pointed out by the Compt's, that Dr. Fitch does not omit all the English Grammar, as both the complainant and Dfd's do.

as on p. 97 of Fitch,

"Compound words should be ~~divided~~ divided into the parts of which they are made up; as up-on, with-out &c. and so in Latin words, ab-ulor, in-ers, propter-ca, et-erim, &c. In like manner, when a syllable is added in the formation of the English verb; as lov-ed, lov-ing, lov-eth, with-ing &c.

They also show that the last clause is omitted by both Compt's and Dfd's. —

a similar passage is shown on page

8 of Fitch's Gram. which is omitted by both Compt's

or Dfd's,

and on p. 99 of Fitch the following

"The English Language has one part of speech more than the Latin, namely the Article."

This is also not found in Compt's or Dfd's Book.

That Wells in his Abridgement does not omit all English Grammar, but places some of it together with other matter in notes at the bottom of the pages, as on page 3, 4. —

Summary.

It would appear, from the evidence in this cause, that the Dfd's Grammar does make the omissions of these particulars of English Grammar, which are exhibited in the above Reply of the Compt's; and it is not shown that any work had omitted those particulars, before the Dfd's, except the Compt's. ~~It is also not shown that~~ The plan of omitting to teach a system of English Grammar in concurrence with the Latin, which seems to have been the original design of

Defendant's evidence.

Witness.

The Defendant's offered in evidence an edition of Adams's Lat. Gram. by Dr. Fitch, President of Williams College; the copy produced was of the 4th Edition, Troy, 1814. — There is prefixed to it an Advertisement by the Faculty of that College, which contains the following passage. "But the English part of this Grammar, which very considerably increases its size & price, is found by experience to be not only useless, but very inconvenient to the student and instructor. An Abridgment of this Grammar having been shown to us, in which the English part and other useful parts are omitted, we hereby recommend this cheap, abridged and more convenient Edition to all students who expect to resort to this College, and direct" &c. — This Advertisement is dated Dec 30, 1805; and the Dfd's rely upon it as showing that the plan of omitting English Grammar from the Editions of Adams, began as far back as that date.

They also offered in evidence Wells's Abridgment of Adams's Lat. Gram. Edit. Boston 1824 — as making the same omissions —

Mr. Selam) is of an earlier date than the Bonnell's Grammar. It is clearly the principle upon which Dr. Githen constructed his edition, and this feature is expressly noticed and approved by the Faculty of William's College, in their advertisement prefixed to his work. It is also the principle upon which Mr. Mills constructed his "Abridgment." ~~It is also the principle upon which~~ The particulars pointed out in the Biff's "Reply", are matters of illustration, where the analogies existing in the English tongue are introduced to illustrate the corresponding rules or principles in the Latin, and do not seem to be introduced for the purpose of teaching English Grammar, as such. Now for the concurrent omission of these particulars by the Bfells, after the Bonnell's, is a violation of copyright, the Master does not report. -

III. "That the Defenell's Grammar has rules of accent prefixed to the original grammar, after the plan of Gould's (the Comptell's) edition, some of the rules being substantially taken from Gould's."

Comptell's Evidence

The Comptell's show that the said Rules in both the Grammars are substantially the same.

Defells. Evidence

The Defells suggest that the said Rules were taken by both the Comptell's & Defells from Walker's Key, and a sheet published by Professor Chamberlain of Dartmouth College, and they also show that Gould admits them to be from Walker, and the system used at Cambridge, in his Preface p. ix.

They also show that of Chambersland's

Rules Obs. 1 is not in Gould
Obs. 2 is not in the same language
Obs. 3 is not in the same pronunciation.

Summary.

The Rules referred to in this allegation are not the expression of principles inherent in the nature and structure of the language itself; but they are the Conventional Rules which have been fixed upon by the Moderns to regulate the pronunciation of a dead language. The Rules themselves are drawn from the analogous principles of the pronunciation of English; but the resort to those analogies is a conventional idea.

I find that Gould's Rules of Accent (only two in number) are not original, and that the idea of pronouncing Latin in analogy to the received pronunciation of our own language, is not original. The Latin Language has been so pronounced in England since the time of Henry VIII. to whose reign the Latin Grammars are traceable - and the Continental editions have always pronounced it in analogy with their own languages; but then have been attempts by the learned to suggest what the lost pronunciation of the Romans actually was. But the common source from which the Defells contend both Gould & Chambersland took this plan and the substance of the rules, is Walker's Key; and it appears that in this work 1. the idea, or system of pronouncing Latin in analogy with the pronunciation of English ~~is not~~ is as fully and systematically pronounced, as it is by Gould; 2. that the substance of the two Rules given by Gould is also given by Walker, and Prof. Chamberlain. 3. that the same Rules in substance ^{given by Gould} are given by Chambersland, but not in the same words.

IV. "That the Delt's Grammar follows Gould's plan, by prefixing Rules for the sound of the vowels, and copies some of the Rules literally and takes others substantially, as in the 11th page."

Complainant's evidence.

Defendant's evidence.

Answer.

That the said Rules are found in both Grammars.

The Delt's suggest that ^{of} the said Rules obs. 4 & 5 are different in phraseology, and examples; obs. 6 is not found in Gould; and they allege that obs. 8 of Cleveland is an improvement on the corresponding phrase in Gould, with one additional example; and that exception 2 of Cleveland has two additional examples. In regard to the Rules for the sound of C, G, and CH, they show that the arrangement of Cleveland is new, being tabular, with words as examples which Gould has not; and that the materials are found in Walker's Key, Smith's et. Handy Grammar, and Lany's Prosody.

Reply

The Compt's contend that the Rules respecting C, G, and CH are very dissimilar in Lany's Prosody, Smith's Gram. and Walker's Key; but that in Gould & Cleveland they are substantially the same.

Summary.

The same observations made under the last preceding head, are applicable here. Whether or not they vary the principles of law applicable to the facts, I conceive not to be within my province. The result of those facts, upon the evidence, is, that the plan of giving rules for the sound of vowels is not original with the Compt's; that the rules themselves for the sound of C, G, and CH, have been in substance propounded by earlier grammarians; ^{by} some in one, and by some in another form; that of the rules for the sound of vowels, found in Gould, the I. with the "observation" under it, is given in substance by Walker; but that the remainder (about 3/4 of the whole) viz. II. III. IV. V. with the three short propositions under them, called exceptions & observations, are substantially the same in Cleveland as in Gould. I consider that the variations in phraseology & examples, in these last, on which the Delt's rely to rebut the charge of a literal piracy, do successfully repeal that charge; but that the allegation of their being substantially the same, is sustained. It is likewise proved that Mr. Cleveland has added some Rules, as above stated, and these additions are of obvious importance and utility.

V. That the *Deflt's Grammar* has followed the plan of Gould in marking the quantity of the penultimate vowel in the Latin words throughout the work, where the quantity was not determined

Complet's Evidence.

Deflt's Evidence.

Answer.

The *Complet's* show that the plan of marking the vowels is the same in both works, and eight instances are pointed out by them where Mr. Gould's work contains ~~typographical~~ errors, in the marking of vowels, and the same errors are found in the same places in Cleaveland's book: and the *Complet's* rely upon this as circumstantial evidence of a direct copying on the part of the latter from the work of the former.

The *Deflt's* contend that the plan of marking the penultimate vowel is not new or peculiar to Gould, the support of which they produce

Adam's *Gram. Edit.* 1773
Fitch's *Adam's Gram. Prog.* 1814.
Smith's *N. Comp. Gram.* Boston 1806,
Adam's *Gram.* Albany 1820
Lump's *Latin Gram.* N. York 1801
Adam's *Gram.* N. York 1820
Adam *abridged*, N. Haven 1825?
Fiske's *Adam*
Grant's *Gram.* London 1823
The *London Lat. Gram.* 1787.

Reply.

That none of the authors made it a rule to mark the penultimate; and that, as an example, the Superlatives of adjectives are seldom marked by the other authors, but always by Gould & Cleaveland.

Summary. X

The earliest trace of a plan of marking the quantity of the penultimate vowel, is in the *Lat. Gram.*, of 1787. From thence, down to the most recent of the authors and editors cited by the *Deflt's*, it is apparent that this plan has been followed by all, to a greater or less extent. Of those authors & editors, it appears that Smith makes the most frequent use of it, and I find that he marks the Superlatives of adjectives. The result of the evidence upon this point may be stated thus - that ^{it} is proved that the *Complet's* Editor has made use of this plan to a greater extent than any previous writer, but that previous writers had used it more or less; and that the *Deflt's* Editor has made use of it to the same extent and on the same words, as the *Complet's* had done.

In regard to the eight instances of similar errors, I find that of those eight words, the same mistakes had been made in three of them in the *Edint. Edition* of 1773, and in Dr. Fitch's *Edition* of 1814, while the other five are marked ^{in these last Editions} as the *Complet's* say they should be marked. In Cleaveland they are marked precisely as in Gould.

VI. That the Dfells have introduced into their Edition the same new heads in divers places, particularly at pages 35, 78, 303, 305.

Compt's Evidence.

Dfells Evidence.

The Dfells contend that there is no substantial difference in the above particulars between Gould's and the preceding Editions of Adam -

in support of which they produce

Compt. Edition 1793

Fitch " 1814

N. York " 1818

Summary.

Of the above particulars alleged by the Compt's, two are found arranged and set down in the same way in former Editions in the other two (pages 78 & 303.) the coincidence consists in setting down the same heads

"Formation of the Degrees"

and

"Prosody"

VII. That the Dfells have copied in many instances the division of paragraphs and discrimination of what was important, by printing the same in a distinct type, particularly at pages 67, 69, 73, 74, 78, 115, 196, 197, 298.

Compt's Evidence.

Dfells Evidence.

The Dfells contend that there is nothing new in the matters here alleged; that the like divisions, substantially, are to be found in prior Editions; they offer

Compt. Edition 1793:

N. York — 1820

Boston — 1812

Fitch — 1814.

Summary.

I do not perceive that this allegation involves any thing more than a use of similar type; or rather the use of a similar mode of distinguishing what is more from what is less important to the learner. I find that the same thing had been done in the earlier Editions of Adam; and that the system itself is not peculiar to the Compt's.

The same matters existed in the original Edm't. Edition.

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VIII. That the Stfets have adopted in many instances the transportation of matter from the text to the notes, and from one part of the work to another, particularly at pages 15, 16, 65, 76, 81, 98, 116, 328."

Complete evidence.

Stfets. Evidence.

The Stfets allege, that the matter here said to be transported from the text to the notes, is in the prior editions of Adam, and is distinguished by a smaller type, whether in the text or notes; and that Gould has done nothing but place the original matter upon a different part of the pages, and without any advantage or improvement from that circumstance.

Summary.

The statement made by the Stfets is substantiated upon the evidence, except in relation ^{to the note} on the 328th page of Beauchamp which is as follows.

"A strophe or stanza includes as many lines as are necessary to show all the different kinds of ~~verse~~ measure in an ode.

It is called strophe, which in Greek literally means a turning, because at the end of it you turn back to the same kind

of verse with which you began."

This note is not shown to be in any of the prior editions. All the other matter, embraced in the above ^{references} pages, is found in the original work - and Mr. Gould's peculiarity consists in placing it ~~at~~ ^{in the} bottom of the pages, instead of leaving it in the text. So far as the question of this being an improvement is a question of fact, I do not perceive how it is an improvement, and nothing on that head is suggested by the Complete. So far as it is a question of Law, I do not report.

In regard to the note above recited, I find that it was original with the Beauchamp, and has been adopted by the Stfets.

IX. "That the Belts have followed Gould in giving the English of the cases and numbers of nouns declined as paradigms."

Cowple's Evidence.

Belts' Evidence.

The Belts allege that the same thing had been ^{done} long before by various authors, and that Gould had only followed them. They cite

Wells's Adam 1824

Elton's Grammar 1788

Merchant Taylor's Grammar 1787

Silg's Grammar 1787

Edinb. Adam 1793

Milner 1742

Smith

Jones

Salem Sat. Grammar 1783

Walker's Evidence 49

Summary

The result of this evidence is, that by all the above cited authors and editors, except the three last, the English of ^{the} cases and numbers of nouns declined as paradigms are given, more or less; and that by some of them they are given as uniformly and to as great extent, as by Gould. They do not always use the same paradigms, which have been used by Gould, and which Cleveland has also used.

X. "That the Belts have copied literally in part and substantially in part remarks on gender prefixed to the declension of nouns."

Cowple's Evidence.

Belts' Evidence.

The Belts allege that their work is not the same, in this passage, with the Cowple's; - that the arrangement of the remarks is different - that Gould follows Adam in placing these remarks after "General Rules of Declension" - that Cleveland follows Gould in placing them before "Number" "Case" and "Declension" -

That Cleveland's first paragraph on Gender is new -

That the 3^d & 4th are in substance in Grant, p. 6, which probably served as Gould's basis.

Summary.

The passage in question consists in both works of a statement or discussion of Gender, as one of the topics involved in the science of Grammar, including first a statement of the natural philosophy of Gender, and then a description of grammatical gender as founded on the analogies of natural gender, and the conventional principles that have been resorted to, to complete the system, where those analogies fail. — The original work of Mr. Adams, and subsequent editions of it in this country, contain the substance of what is given by Gould in his two first paragraphs, on the grammatical gender of Latin Nouns: but he did not preface these remarks with a distinct statement of natural gender, thereby suggesting and stating the analogies on which grammatical gender is founded. Mr. Adams' original statement began simply "Nouns in Latin are said to be of different genders; not merely from the distinction of sex, but chiefly from their being joined with an adjective of one termination and not of another." This presupposes that the student is already acquainted with the fact that on the analogies of natural gender the philosophy of grammar has constructed its genders of words. But in Mr. Gould's work this fact is brought to the notice of the reader: and Mr. Cleveland has done the same thing; and so far as the former is ^{either by virtue of his matter, or arrangement & continuation} entirely original upon this point, so far the latter has violated his exclusive right. — It appears ~~therefore~~ that in Mr. Grant's very philosophical "Institutes of Latin Grammar," (London 1823,) the distinction between natural and grammatical gender is pointedly expressed, and it is shown how the grammatical gender of the Latin Language involves something more than the distinction of natural gender. Mr. Gould has gone a little farther than this in stating that "on this distinction of the sexes did gender originally depend"; (which statement Mr. Cleveland does not copy.) Mr. Cleveland's paragraph on the same ^{and the original Adams} topic embraces the substance of what is found in Grant, and in different phraseology from that used by Gould.

Then comes a paragraph stating the grammatical meaning of "Common" gender and "doubtful gender", which is in terms identically the same in Cleveland as in Gould, while the substance of it is found in Grant.

This is followed by a paragraph on the ^{practical} distinction between "Common" and "doubtful gender", which is in terms identically the same in Cleveland as in Gould, and the substance of which is not found elsewhere.

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XI. "That the Edits. have adopted the arrangement of the terminations of the several declensions in Columns, instead of putting them in transverse lines, as they were arranged in the original work of Mr. Adams."

Compt's Evidence.

Edits. Evidence.

The Edits. allege that Gould's arrangement is not new - that it had been adopted long before by Grammarians - and they produce Jones's Lat. Gram^r. 1816 - and they further contend that the change of form is wholly unimportant.

Summary.

In the original work of Mr. Adams, there is prefixed to each declension of nouns a number of the terminations of that declension, arranged in transverse lines. The alleged infringement consists in putting these terminations in Columns, after the Compt's plan. I find there are the same tables in Jones's Grammar, and that they are arranged in Columns.

XII. "That the Edits. have copied the additional termination of the vocative and ablative cases of the word "Anchises"; and have copied from Gould the declension at length of the words "opus", "dogma", "parvus", "arund", "fideli", "calcar", "actus", and "vox", in the third declension, and given the English to the words "opus" and "parvus."

Compt's Evidence.

Edits. Evidence.

The Edits. state that these words are thus declined at length in various Grammars of earlier date, and produce

Edin Grammar	1785 & 1819
Hall's Adams	1824
Jones	1816
Mant	1791
Charl't "ay's"	1783
Warren	1742

Reply.

The Compt's alleges that but about half of the said words are declined in the works mentioned. -

That the mode of declining "Anchises" is peculiar to Gould, in which he has been followed by Cleveland.

As to the word "Anchises", they say, it is declined at length as by Gould, in

Edin Gram ^r (1806)	1783
Smith	1812
Milner	1742
Greene	

XIII "That the Gills have followed Gould in making a distinct head of heterogeneous nouns, and heteroclit nouns, in pages 55, 56; have adopted and copied the article heteroclit, in page 56; copied the word "Deprim" under the head of "diptola" in defective nouns."

Campbell's Evidence.

Gills' Evidence.

The Gills state, ~~that~~ in reference to

1. The distinct head of heterogeneous nouns, that the language is verbatim that made use of in the prior editions; that the mechanical distribution of the types on the page is different; that the captions of the two classes of nouns are like those of Gould, but that the names of the two classes were used originally by Edman, as in the Edman's Edition, p. 44-50.

2. The distinct head of heteroclit, that in addition to the remarks made under the former head Gould has a distinct section of heteroclit p. 45 also Edman p. 47 also the Port Royal Grammar vol. i. p. 126 -

3. The copying of the article "heteroclit" - that ^{it} is taken from the prior Editions, as the Edman's p. 50 -

Summary.

It appears that the whole of this matter in relation to heterogeneous and heteroclit nouns, as it is found in Gould and to beavered, existed in the original work of Mr. Adam - verbatim; and that the only improvement made upon it by Gould consists in placing distinct captions over the same matter. This may be best exhibited by comparison.

Adam, (Edinboro 1793)
" Irregular Nouns

Irregular nouns may be reduced to three classes, variable, defective and redundant

I. Variable Nouns

Nouns are variable, either in gender, or declension, or in both.

Those which vary in gender are called heterogeneous, and may be reduced to the following classes,

1. Masculine in the singular and neuter in the plural

Sc. &c.

Gould

" Irregular Nouns

Irregular nouns may be reduced to three classes, variable, defective and redundant.

I. Variable Nouns

Nouns are variable either in gender, or declension, or in both.

Heterogeneous nouns

Those which vary in gender are called heterogeneous, and may be reduced to the following classes

1. Masculine in the singular and neuter in the plural -

Sc. &c.

And so with the title of heterochlytes; in reference to which it is also true that the other authors cited have each a distinct head of heterochlytes. In reference to the entire article of heterochlytes, a part of it is found in the original Adam, and the rest is taken from Grant & Smith, by Mr. Gould, and arranged into this article; the same being used by Cleveland.

In regard to the word "refrem", it appears, that in addition to the examples under the head of "diplosta" given by Mr. Adam, Mr. Gould gave the word "refrem", which has been adopted by the Dfells' editor.

XIV. That the Dfells have followed Gould in giving the English at length of the numbers and cases of the ~~nouns~~ words declined as paradigms, and followed and copied Gould's edition in giving the English of the ~~nouns~~ adjectives declined, in their Edition pages 68, and have in page 74 adopted the paradigms "prudens" and "plus" in adjectives.

Complete Evidence.

Dfells' Evidence.

The Dfells allege that the plan of giving the English at length of the numbers and cases of ~~nouns~~ ^{words} declined as paradigms, had been long used, and they offer

Groat's Groat? 45-46-52-26
 Cleaven 53-51
 Smith - 33
 Elton - 5

And that in giving the English of adjectives declined, they have only followed other grammarians—

The ~~Dfells~~ ^{Complete} contend that "plus" as declined in the 2d. Edition of Cleaven, and in the 2d. Groat? is ~~identical~~ ^{essentially} different from the same word as declined by Gould & Cleaveland—

In regard to "prudens", all the ~~Grammars~~ ^{Grammatical} has adopted it as one of his paradigms, and has carried it out in a totally different ~~sense~~ ^{manner} , setting down all three of the numbers, which Gould has not.

Now the inflexions of "plus" are given by Adam's 2d. Edit. 1793, p. 65. They also cite Groat? p. 23.

Elton Groat? (1804) p. 10.

Summary.

The result of the evidence is, that the plan itself of giving the English at length of the numbers and cases of ~~the~~ words declined as paradigms, is not original with the Complete grammar. It had been done, more or less, by previous grammarians; and here again, as under the V. head of alligation, ~~Mr. Cleaveland himself, having proposed it to the same extent as we, in the revision, has carried it out in a totally different sense, setting down all three of the numbers, which Gould has not.~~ ^{Mr. Gould has applied and carried out that plan to a greater extent than any previous grammar that has been pointed out to me, and Mr. Cleaveland has done the same.}

In regard to the adjective "prudens", it is true that ~~the~~ Mr. Cleaveland makes the improvement suggested by the Dfells. — "Plus", as declined

by Gould, is given in full in the 2nd part, and partially in other
volumes —

XV ~~XIV~~ That the Dfcls. have adopted & copied the change of the English translation of the imperfect and future tenses of the Latin verbs, and adopted and copied Gould's improvement in giving the entire Latin words in each of the voices, tenses, persons & numbers.

Concls. Evidence.

Dfcls. Evidence.

The Concls. allege that the translation of the imperfect tense in the Eton Grant is different from that in Gould and Cleveland. That the translation of the future given by Gould and followed by Cleveland is different from all the other grammars.

The Dfcls. contend that this English translation of the imperfect tense was adopted in some grammars long before Gould or Adam, as in the Eton Grant (1788) p. 22. ; that the same

mode of constructing the English future has been also long known - and that this particular form of rendering the imperfect is also given by Adam himself, as well as the usual one of "posed".

That the entire Latin words in each of the voices &c. are given in the Eton Grant p. 22 and others -

Summary

The imperfect tense had been rendered in the Eton Grant as cited by the Dfcls, in the same manner as it is given by Gould & Cleveland. In respect to the future tense,

Mr. Gould's:

I shall love,
Thou wilt love,
He will love;
We shall love,
Ye or you will love,
They will love.

The Eton Grant

I shall or will love,
Thou shalt or will love,
He shall or will love;
We shall or will love,
Ye shall or will love,
They shall or will love.

This form of the future it is alleged by the Dfcls. has been long used in English Grammars, tho' they do not cite any works to show it.

The entire Latin words in each of the voices, tenses, persons and numbers are given in the Eton Grammar, as they are by Gould and subsequently by Cleveland.

XVI. That the Dfells have adopted and copied Gould's entire English Translation of the Latin word in the paradigms of the 2^d, 3^d & 4th conjugations and both voices and all the moods, tenses numbers and persons in the 97th and the following page of their the said Dfells Edition.

Gould's Evidence.

Dfells Evidence.

The Dfells state that the same had been done long before, in the translation of the paradigms of the 2^d 3^d & 4th conjugations as in

The Eton Gram^r p. 25 — 48

Ment's — 15 — 46.

and also that the same had been done in regard to both voices and all the moods &c as on their 97th and following page, in

The Eton Gram^r p. 34 &c
and others —

Summary.

The paradigms given under the 2^d 3^d & 4th conjugations, in the Eton Grammar, are translated in all their moods, tenses and persons of both voices; tho' the paradigms made use of are not the same as those in Gould & Cleveland.

XVII. That the Dfells have adopted Gould's paradigm of a verb ("capio") in "io" in the third conjugation, in page 105 of their edition

Gould's Evidence.

Dfells Evidence.

The Dfells allege that this had been given in other works, and produce

Hickie's Gram^r London 1828

The Dfells reply that "capio" as conjugated by Hickie is different from that verb as conjugated by Gould & Cleveland.

Summary.

I find the same verb-conjugation in Hickie, and it is obvious that whatever grammarians undertake to set down and conjugate a Latin verb must give the same forms, unless there are differences of authority as to what those forms actually are. Mr. Hickie's conjugation of the verb is the same with Mr. Gould's. The only difference between them is, that the tenses which Mr. Gould calls the "Present" and "The perfect", Mr. Hickie calls the "Present-perfect" and "Past-perfect"; ^{the 1st} a difference which is apparently quite immaterial, some grammarians following one system of naming the tenses, and some another. The verb as given by Gould is adopted by Cleveland.

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XVIII: "that the Effels have in page 117 of their edition copied partly literally and partly substantially, Gould's rules for the formation of the various tenses of verbs, and in page 127 had adopted from Gould the word "prosum" as a paradigm under irregular verbs."

Gould's evidence

Effels' evidence

The Effels state that in the old editions of Adams are found examples of tenses formed in the four conjugations; that these are omitted in Gould's Grammar and in Cleaveland's, and the Rules for such formations are substituted. That under this head Cleaveland clips from Gould in as many and as important respects as the Bill does to have been done by Gould taken Adams; that the Rules in Cleaveland are very much enlarged or improved by him upon the Edinburgh and American editions of Adams, in the necessary instances.

1. Cleaveland makes separate heads of Participles & Gerunds, with Captions, and gives examples under Gerunds.

2. In the passive voice he has altered the arrangement by making separate articles of the Indicative & Subjunctive modes, the Imperative, Infinitive and Participles.

3. Under Indicative and Subjunctive Modes, the remarks are all different from Gould's; and Cleaveland gives examples from 3 Conjugations in 6 Columns.

"Prosum"

The Effels own that Adams sets out one part of prosum with irregularities; so also

Gould p. 121,

Smith p. 61-2.

The Complaints being that "prosum" is given by Adams, Gould & Smith as the Effels contend.

Summary

In the original work of Mr. Adams, under the head "Formation of verbs", the mode

of forming the different tenses was given by examples, by setting down the root tense, and then running off the terminations of the different tenses formed from it. Mr. Gould substituted for this mode a statement of Rules for each tense; giving the general principles corresponding to each form as it had been set down by Adam. Now in respect to the rules for the Indicative, Subjunctive, Imperative & Infinitive modes, ^{in the active voice} I find that Mr. Cleveland gives Substantially the same, with a variation of phrasing in some slight particulars, which appears to me to be studied. The remainder of this topic, upon the formation of the passive voice, I find to be either new matter, or such as does not appear to me to involve any invasion of Mr. Gould's original matter.

In regard to "Proseum", Mr. Adam originally gave it as a paradigm of the irregular verbs; and set forth its tenses sufficiently to give the learner an idea of its construction. He did not however give them throughout, in all the moods numbers persons &c. - But this had been done by Smith, as fully as it has since been done by Gould.

XIX. "That the D^{ts}., on page 272, have adopted & copied Gould's 51st 52^d & 56th Rules of Syntax, and on pages 56 & 273 have copied Gould's observations on the 50th 53^d & 54th Rules of Syntax."

"Complete Evidence."

"Hills' Evidence."

The Complete show that 9 lines of the 2^d observation under Rule 50 are copied; — 9 lines of the 2^d observation under Rule 53 are also copied; — four words of the 2^d observation under Rule 54 are copied; —

The Hills state that the complete copying of nine lines under Rule 50, are principally classical quotations, which may be found for the most part in Grant p. 245, 246, and in the Dictionary. —

That the 2^d observation under Rule 53 is from Grant p. 250-1, 248-9;

See 2^d —

That the arrangement of the quotations appended to under Rule 50 is peculiar to Gould and followed precisely by Cleveland.

That the phraseology of 2^d obs. under Rule 53 is Gould's and is followed by Cleveland —

Summary

Rule 50. The phraseology of this Rule, as given by Gould, is slightly different from that in the old editions, and I consider Mr. Gould's form the better one — it is more intelligible to a young learner. The principle is of course the same. The observations under this Rule are the same as in the old editions, with the exception of ^{or} 9 lines with which the 2^d observation closes. It is suggested by the Hills that these are made up of classical quotations, and are taken from Grant &c. A part of them are so, and the principle or statement of fact which they are introduced to illustrate, is stated in Grant. But another part of them, with a similar rule or principle, I do not find in Grant; and the conclusion to which I have arrived on this point is, that the phraseology of the Rule itself, and a small amount of original matter in this 2^d observation have been adopted by the Hills.

Rule 51. Mr. Gould made a similar improvement in the phraseology of this Rule, which has been followed by Mr. Cleveland.

Rule 52. The same is true of this Rule.

Rule 53. I do not find the 2^d obs. under this Rule to be so original that the using of it is an infringement, on that ground. It is taken from Horace mentioned by Cleveland and if the arrangement or combination of the matter drawn from other sources gives Gould a copyright, it would

Rule 54. is the same in the old editions, throughout. } seem to be a violation

Rule 56. The phraseology of this Rule is slightly improved by Gould, and the same is used by Cleveland.

XX. That the Edts. have in page 303, adopted Gould's distinct head of Prosody, and at page 304 his rules for quantity, and at pages 303, 305, 313, 315, 316, have copied many of Gould's observations on those Rules."

Opponents' Evidence.

The Oppos^{ts}. suggest that the definition of Prosody, as given by Gould p. 153, the phraseology is original, and that it has been followed by Cleveland.

Edts.' Evidence.

The Edts. contend that the adoption of Prosody as a distinct head has been used by Grammarians from the earliest times, in the grammars of various languages; and they refer to the grammars cited in this case, generally, and particularly to Grant p. 340

Oxford Gram^r (1733) p. 196, 7

Summary.

1. In regard to Prosody, as a distinct head, ~~without looking further~~, it appears that both Grant and the Oxford Gram^r treat of Prosody, under a distinct head. With respect to the Definition of Prosody, the Bill does not change any infringement,

and I do not therefore suppose that I am bound to hear evidence respecting it.

2. The rules for quantity at page 304, and the observations on those Rules at p. 303, 305, 313, 315, 316.

On page 305 (b) the only alleged improvement given by Gould, which has been followed by Cleveland, is taken from Grant, and arranged as it stands in Grant.

On page 313, the substance of Gould's improvement is from Grant, and adopted by Cleveland.

On pages 315, 316, I find that Cleveland has adopted some original matter of Gould's, about 1/4 of a page, which is not shown to me to exist elsewhere.

XXI. "That the Edits. have copied substantially Gould's metrical key or explanations of the various kinds of Verse in Horace, and at page 333 copied Gould's addition in the Appendix on the subject of abbreviations, punctuation, Capitals, division of Roman Months, tables of Roman Coins, weights and measures."

Complete Evidence.

Edits. Evidence.

The Edits. contend that the metrical Key in Gould was taken from Hooper's Prose, and that Cleveland's is from the same; that the article on the combinations of Metres is from Carey's Prose, & Hooper p. 35.

That the Note under Capitals is substantially from Grant, p. 3.

That the Notes on Islands & Stones, in Gould p. 284, are in substance from Adams' Roman Antiquities, p. 218.

That the Tables of Roman Months is from the same p. 219 - Also from Smith p. 134.

That the Tables of Coins, weights & measures are given by Gould & Cleveland both, on the authority of Adams' Roman Antiquities; and

That Cleveland had also used Kees' Epitome, and "Coin".

Summary

The Metrical Key to the Odes of Horace is found in Hooper's Prose, (Philadelphia 1814) precisely the same as in Gould and Cleveland.

So also is the article on the combinations of metres, Hexabatum

In regard to the matter in the Appendix, Mr. Gould has added nothing on the subject of abbreviations, punctuation, and Capitals, to what was in the original work of Adams, except this note; "Two capitals in this way denote the plural number, as L. D. Sagis Doctor, L. D. Sagum Doctor". In Grant, the mode of representing a contracted plural is printed out, in this manner; "Coss, consules, doubling the last letter." Mr. Cleveland gives the same as Gould.

The article on the Division of Roman Months, in Gould, contains nothing original; what additions were made by him are very slight, and are in substance in Smith; and the Table of Months is litera in Smith, etc. Cleveland is the same with Mr. Gould.

The Dates of Coins weights & measures are expressly stated by Goulet to be given
on the authority of Orlan's Roman Antiquities. Some additional remarks on
the Roman Money, by Goulet, seem to be exactly followed by Goulet.

XXII. That the Defendants have taken, in most instances literally and in others substantially, making very slight alterations from the matter added in said Gould's Edition to Adam's original work, on the following pages of said new Edition — *vc. vc.*

This allegation is merely a general recapitulation of the several allegations above examined. As I have been requested by the Compt's Counsel to report the amount of matter taken by the Df'ts from their work, I accordingly find, that substantially the whole of what was added by Mr. Gould to the old editions of Adam (whether from one or another source, or as matter more purely of invention on his own part,) has been adopted by the Df'ts. How far this matter was drawn from other sources and from authors alike open to the Df'ts & Compt's, appears under each of the foregoing heads. How far the use of such matter by the Df'ts, in the same form or arrangement, or in the same phraseology, or in different phraseology, (which seem to be the main questions arising in this cause) affect constitute an infringement of copy-right, I conceive to belong solely to the province of the Court.

Fees = ~~\$200~~ {

All which is respectfully submitted.

Geo. S. Curtis Master in Chancery,

Gray sh. in Eg. by Russell sh.

Report of Master
Nov. 1839. Feb. -

Nov. 1839. Feb. -
F. B. M.

Report of the Master

To the Honorable Justices of the Circuit
Court of the United States of America holden at Boston
within & for the District of Massachusetts.

The bill of Complaint of Harrison
Gray, James Brown & Charles Brown against John B
Russell, Samuel Shattuck and John D W. Williams.

Respectfully complaining Show unto your Honors
your orators Harrison Gray, ~~James Brown & Charles Brown~~ ^{James Brown & Charles Brown} of Boston in the County of Suffolk
Massachusetts, within the said District of Massachusetts
and all being citizens of the United States, book sellers, doing
business under the name, style & firm of William Gray & Co.
that heretofore in the year of our Lord eighteen hundred and thirty seven
certain persons doing business under the name, style & firm of
Cummings, Williard & Co, viz. William Williard, Timothy
Harrington Carter, and Charles Coffin Little, are citizens of the
said United States & resident in said district, published a book
entitled "Adams Latin Grammar with some improvements & the
following additions; rules for the right pronunciation of the Latin
language, a metrical key to the odes of Horace, a list of Latin
authors arranged according to the different ages of Roman Literature,
tables showing the value of the various coins, weights & measures
used among the Romans, by Benjamin A. Gould, Master of the
public Latin School of Boston" being a new edition of a
foreign publication, which edition was prepared by said Benjamin
A. Gould, who then was & still is a citizen of & resident in the
said United States & who at the time of preparing the same, agreed
in writing upon sufficient consideration that said Cummings
Williard & Company should be the exclusive proprietors of, & set
out a copyright in their names for the same. A printed copy of
the title of which book, being such new edition, the said firm
of Cummings, Williard & Co on the 7th. Feb. 1835, being their
exclusive proprietors of the same and duly entitled to a
copyright of the same, do not set in the office of the ^{clerk of the} District

Court of the United States for the Said District, of Massachusetts, before the said book had been published, which title was in that day recorded in the ^{office} of the Clerk of said District Court, & like said Cummings, Hilliard & Company caused to be published inserted in the pages immediately following the title page of said book a copy of the record of the certificate of the Clerk of the Said District Court of the United States that the title of said book had been deposited in the office of said Clerk on the day aforesaid; and within two months from the date of said certificate, said Cummings, Hilliard & Co caused a copy thereof to be published in a newspaper printed in Boston in said District, for the space of four weeks, & within six months from the publication of said book caused a copy of the same to be delivered to the Secretary of State of the United States to be preserved in the office of that officer, and took all the measures & steps requisite by law for securing said copyright, and said firm of Cummings, Hilliard & Co. & their assigns have had the legal & exclusive right to publishing said book being such new edition from the time of the date of said certificate to the present time, and by & in virtue of the laws of the United States in force at the time of obtaining said certificate & publishing said book & passed since its publication, the assigns of the said Cummings, Hilliard & Co. & the assigns of such assigns have the exclusive right of publishing said book for the period of fourteen years from the date of said certificate, which period has not yet expired, & also of renewing & prolonging such copy right for the period of fourteen years from & after the expiration of said first period of fourteen years.

And the plaintiffs further shew, that, by assignments in writing for sufficient consideration made by the original proprietors and intermediate assignments, ^{proprietors} assigns & the assigns of their assigns from time to time, ^{the} said assigns & proprietors each & all of them, being residents in and citizens of the said United States, the plaintiffs for a valuable consideration became the sole legal proprietors in their own right, of said copyright on the seventh day of March in the year of our Lord eighteen hundred & thirty three (over since that time have been & now are) such sole proprietors, & ever since the said seventh of March have had & now have the sole exclusive right of printing, publishing & exporting to sale & selling copies of the improvements & additions made & originally published in the said edition of said work, entitled aforesaid, in which edition the

[illegible]

and added a numerical arrangement & new observations under the head of prosody, gave an analysis of metrical kind of the various combinations of verse, used ^{in the Odes of} Horace with an index to the odes, omitting the analysis of the kinds of verse, used by Buchanan gave an appendix on the subject of punctuation, Abbreviations, division of the Roman months, tables of Roman coins, weights & measures, and made other alterations & improvements in the said original work.

And the plffs further shew that they being the, lawful
proprietors of said Copyright, or (patent) of the same, having
many copies of said edition of said grammar with the said improve-
ments & additions on hand & offered for sale, and always having had on
hand & offered for sale, at a reasonable price, a sufficient number of copies
of the said grammar so improved & enlarged & being in the enjoyment
of the profits of the same. — Thos. Brooks Russell, Bernard Halluck,
both of said Town, and John D. Williams of Roxbury in
the County of Norfolk ^{in said State} & book sellers & ^{in said State} ~~in said State~~ (under the name)
of J. B. Russell, Halluck, and Company, on the fourteenth day
of August instant, without the consent & allowance of the plffs ^{proprietors}
for sale & sold, & at divers times before & since that day have ^{by them} offered
for sale & sold divers copies of a work & sale offer for sale of the same,
entitled "Adam's Latin Grammar with numerous additions & improve-
ments, designed to aid the more advanced student by further elucidation
of the Latin Classics by C. D. Cleaveland". A.M. Late proprietor of the
Latin Language & Literature in the University of the City of New
York" which is a copy from the said ^{improvement & additions to the} ~~first~~ mentioned book and
the printing & selling thereof & the exposing of the same to sale, ~~is~~ in
violation of the said Copyright, of the plain plffs, & the said Bernard
Halluck & Williams at the time of making such sale & of exposing
the said copies of said Cleaveland's edition to sale, knew that the
plffs had the Copyright, aforesaid, & knew the said copies by them sold
& exposed to sale, to have been copied from the said work, of which the plain
plffs have a Copyright, & knew the printing & exposing to sale & selling the
same, without the consent of the plffs to be an infringement of such
Copyright, & knew the said copies by them so sold & exposed to sale
to have been printed & published without the consent of the plffs,

And the plffs further show that, the said Plaintiff's edition of said grammar is copied, ~~from~~ & pirated, from the said Gould's, & is an infringement, on the plffs copyright in the following among others circumstances & particulars, viz, it adopts the same title; it adopts the plan of Gould's work in compiling the whole of the original work relating to English grammar, omitting, as the plaintiffs believe, precisely the same passages throughout. For

-ticularly at pages 16. 18. 68. 69. 71. 72. 78. 172. 224. 260. 283. 297. 303
310 of 3rd. ed. ~~Cleveland's~~ edition it has rules of accent prefixed,
to the original grammar after the plan of Gould's edition, some of
the rules being substantially taken from Gould's it follows Gould's
plan by prefixing rules for the sound of the vowels, & copies some
of the rules literally, & takes others substantially, as in the 11th page
the said Cleveland, in his edition has followed the plan of Gould
in marking the quantity of the penultimate vowel in the Latin words
throughout the work when the quantity was not determined by being
placed before another vowel, a double consonant, or two single conso-
nants I have introduced into his edition the same new heads
in various places, particularly at pages 55. 78. 303 305 & copied in
many instances the division of paragraphs & discrimination of what
was important, by printing the same in a distinct type, particularly
at pages 67. 69. 73. 74. 87. 118. 196. 197. 298 adopted in various instances
the transposition of matter from the text to the notes & from one part
of the work to another, particularly at pages 15. 16. 68. 76. 81. 82. 90. 116
118. has followed Gould in giving the English of the cases & numbers
of nouns declined as paradigms has copied literally in part & substan-
tially in part, remarks on gender prefixed to the declension of nouns,
has adopted the arrangement of the terminations & the several declension
in columns instead of putting them in transverse lines as they were
arranged in the original work of Mr. Stannard - has copied the additional
termination of the vocative & allative cases of the word Anchises has
adopted at length from Gould's edition the declension at length of
the words opus. doctus. pater. urbane. Dido. Calvus. & thus & so in
the third declension & given the English of the words opus. pater. urbane. Dido.
Gould in making a distinct head of heterogenous nouns & the root like
nouns in pages 53. 56. has adopted & copied the article of Hetero-
genes in page 56. ~~has followed Gould in giving the English of the~~
~~the English of the various cases declined, which is in the original page 56~~
copied the word. ~~opponere~~ under the head of d. 1. tota in defective nouns
has followed Gould's edition in giving the English at length of the
different numbers & cases of words declined, as paradigms & follow-
ed & copied Gould's edition in giving the English of the adjectives
declined in his, said Cleveland's, edition page 68 & has in page
74. adopted the paradigms position & plus in adjectives and
adjectives. - has adopted & copied the change of the English
translation of the imperfect & future tenses of ^{the} Latin verb & adopts
the same - Gould's order of the principal parts of verbs prefixed
to each ^{paradigm} ~~verb~~ & adopted & copied Gould's improvement.

in giving the entire Latin words in each of the voiced moods, cases, persons & numbers & his entire English translation of the Latin ^{words} in the paradigm of the 2^d 3rd & 4th conjugations both voiced & all the moods, tenses, numbers & persons in ^{the following} pages of his said Cleveland's edition; & has adopted Gould's ~~edition~~ ^{paradigm} of a verb (capio) in the third conjugation in page 108 of said Cleveland's edition & has in page 107 of his edition copied verbatim & literally & partly substantially Gould's rules for the formation of the various tenses of verbs, & in page 108 adopted from Gould the word prosum, as a paradigm under irregular verbs, & in page 272 has adopted & copied Gould's 50th 51st 52nd 53rd 54th 55th 56th 57th 58th 59th 60th 61st 62nd 63rd 64th 65th 66th 67th 68th 69th 70th 71st 72nd 73rd 74th 75th 76th 77th 78th 79th 80th 81st 82nd 83rd 84th 85th 86th 87th 88th 89th 90th 91st 92nd 93rd 94th 95th 96th 97th 98th 99th 100th 101st 102nd 103rd 104th 105th 106th 107th 108th 109th 110th 111st 112nd 113rd 114th 115th 116th 117th 118th 119th 120th 121st 122nd 123rd 124th 125th 126th 127th 128th 129th 130th 131st 132nd 133rd 134th 135th 136th 137th 138th 139th 140th 141st 142nd 143rd 144th 145th 146th 147th 148th 149th 150th 151st 152nd 153rd 154th 155th 156th 157th 158th 159th 160th 161st 162nd 163rd 164th 165th 166th 167th 168th 169th 170th 171st 172nd 173rd 174th 175th 176th 177th 178th 179th 180th 181st 182nd 183rd 184th 185th 186th 187th 188th 189th 190th 191st 192nd 193rd 194th 195th 196th 197th 198th 199th 200th 201st 202nd 203rd 204th 205th 206th 207th 208th 209th 210th 211st 212nd 213rd 214th 215th 216th 217th 218th 219th 220th 221st 222nd 223rd 224th 225th 226th 227th 228th 229th 230th 231st 232nd 233rd 234th 235th 236th 237th 238th 239th 240th 241st 242nd 243rd 244th 245th 246th 247th 248th 249th 250th 251st 252nd 253rd 254th 255th 256th 257th 258th 259th 260th 261st 262nd 263rd 264th 265th 266th 267th 268th 269th 270th 271st 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770th 771st 772nd 773rd 774th 775th 776th 777th 778th 779th 780th 781st 782nd 783rd 784th 785th 786th 787th 788th 789th 790th 791st 792nd 793rd 794th 795th 796th 797th 798th 799th 800th 801st 802nd 803rd 804th 805th 806th 807th 808th 809th 810th 811st 812nd 813rd 814th 815th 816th 817th 818th 819th 820th 821st 822nd 823rd 824th 825th 826th 827th 828th 829th 830th 831st 832nd 833rd 834th 835th 836th 837th 838th 839th 840th 841st 842nd 843rd 844th 845th 846th 847th 848th 849th 850th 851st 852nd 853rd 854th 855th 856th 857th 858th 859th 860th 861st 862nd 863rd 864th 865th 866th 867th 868th 869th 870th 871st 872nd 873rd 874th 875th 876th 877th 878th 879th 880th 881st 882nd 883rd 884th 885th 886th 887th 888th 889th 890th 891st 892nd 893rd 894th 895th 896th 897th 898th 899th 900th 901st 902nd 903rd 904th 905th 906th 907th 908th 909th 910th 911st 912nd 913rd 914th 915th 916th 917th 918th 919th 920th 921st 922nd 923rd 924th 925th 926th 927th 928th 929th 930th 931st 932nd 933rd 934th 935th 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consideration whereof, and forasmuch, as the plaintiffs are
 remediless in the premises at and by the rules of the Common
 Law & cannot have adequate relief, save in a Court of Equity
 where matters of this & like nature, are properly cognizable, and
 relievable: your orators pray this honorable Court, to issue a
 writ of Subpoena, in due form of law directed to said Russell,
 Shattuck & William, thereby commanding them, at a certain
 day & under a certain penalty therein specified, to appear before
 this Honorable Court, to answer, all & singular, the matters
 and things herein before set forth, & complained of, particularly
 how many copies of said Cleveland's edition of said Grammar
 they have sold & what numbers they have on hand, and that
 they may abide such order & decree, as the Court shall make in the
 premises, and that, they the said Russell, Shattuck & William, may
 be restrained by injunction from selling or exposing for sale, or
 giving or being in any way concerned in the selling or exposing to
 sale or otherwise disposing of any copy of said Cleveland's
 edition of said work, and that they be ordered & decreed to
 render an account, of the copies of the same that they have
 sold, & to pay over the profits of such sales to the plaintiffs, and
 that they be ordered to surrender & deliver up, to the plaintiffs
 all the copies of said Cleveland's edition they have on hand, & that
 they be ordered & decreed to pay the plaintiffs their costs in this
 suit, and that, the plaintiffs may have such further & other
 relief, in the premises as this Honorable Court may seem
 meet, & the nature & circumstances of the case may seem
 to require.

Harrison Gray
 James Brown
 Charles Brown

Attest
 Suffolk County, ss. Aug. 23. 1836

Brown & Charles Brown - two of the plaintiffs the above bill and
 made oath that the facts stated in said bill, as far as they
 have come within their knowledge are true, and that they truly
 believe the facts set forth in the bill derived from information
 from other persons, are true,

Before me

Willard Phillips

{ Justice
 of the
 Peace

Harrison Gray
 James Brown
 Charles Brown

Let a Libinia due
to the defendants in
the form of Larva re-
turnable to the first
day of the next Term
of the Circuit Court to
be shown at 10 o'clock
if for the Districting Map.
hereby on the 15th day of
October next - given under
my hand this 23^d day of
Aug. 1886

To Francis Barnett Esq
 Clerk of the District Court

August 24. 1836
Subsana island -

Maplehurst & Co.

Circuit Court of the United States

May Term 1838

Hillier & Co. & Co.

Rupple & Shattuck

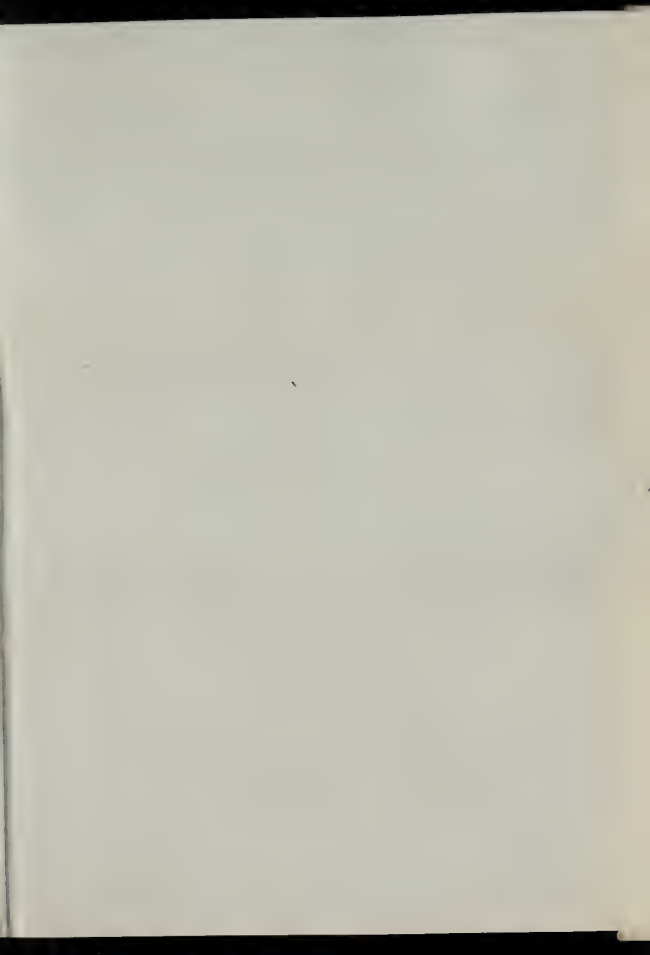
} In Chancery

The defendants reserving to themselves & each of them all benefit of exception which can or may be taken to the said Bill of the Complainants, for answer thereto, or to so much & such parts thereof as these Defendants are advised ~~are~~ material or necessary for them or either of them to make answer unto, severally answering, Say:

That they deny all intention of infringing upon, and have not as they believe, infringed upon the copy rights of another work entitled "Adams's Latin Grammar" with some improvements & the following additions,
" Rules for the right pronunciation of the Latin Language
" a metrical Key to the Odes of Horace, a list of Latin
" Authors arranged according to the different ages of Roman
" Literature; Tables showing the value of the various
" coins, weights & measures used among the Romans -
" by Benjamin A. Gould, Master of the Public Latin School
" Boston "

And these Defendants maintain, that

The



To the Honorable Justices of the Circuit Court
of the United States of America, Resident at Boston
within and for the district of Massachusetts.

Your memorialist the Subscriber, the Editor of
a work entitled Adams Latin Grammar with numerous addi-
tions and improvements, designed to aid the same educated student;
to furnish elucidations of the Latin Classics, by G. D.
Fishland Author late Professor of the Latin Language and
Literature in the University of the City of New York
respectfully but decidedly affirms that he had no intention
to infringe upon and has not infringed upon the copy
right of another work entitled Adams Latin Grammar
with some improvements and the following address
as the author of the right of publication of the Latin Language
is inserted by the order of Honor a list of Latin
Literature is taken showing the value of the various works,
which are mentioned and among the famous by Benjamin
Gould Master of the Public Latin School Boston
as well as we clearly show the value of the
work the Latin Grammar of Doctor Alexander Blain,
of Philadelphia first published in 1772, is viewed by all
publishers and editors in the light of a corpse, and that
with just as much propriety might any one claim to have a
copy right of Honor as a copy right of Adams Latin Grammar
unless it be improved by many and great additions, to which
additions only can any publisher claim an exclusive right
that since it was first introduced into the United States
that since that work was first introduced into the United States

a

a vast number of editions have been published in different parts of the country, each editor improving upon his predecessor in Boston, Amherst (Massachusetts) in Troy, and Albany and New York, ~~New York~~ in Philadelphia, Pennsylvania, and in Baltimore Maryland - And these Defendants now submit,

~~that the subject of the subject is the~~
~~that in~~ the edition of Adams's Grammar published by Hill and Gray and Company of Boston, ^{the said} but four additions, and those not original, have been made to the old Edinburgh ^{edition} of 1793 - but that in the edition ~~published~~ by William Marshall and Company of this City, Philadelphia, ~~which is the subject of the present suit,~~ great additions and improvements have been introduced. ~~These Defendants do not deny, that it is true,~~ ~~as set forth in the complaint,~~ that in some instances the Philadelphia Grammar and the Boston Grammar coincide in some improvements made in the latter upon the Edinburgh edition. But this has arisen, not because the ~~same were~~ ^{same were} copied from the Boston edition, but because the editors of ~~the two editions~~ ^{the two editions} look their improvements from the same sources; the former, however, without acknowledgment; while the latter stated in the preface of his edition the sources whence he derived his new matter introduced. ~~But to come to,~~ ~~timeliness~~ in proof of this, the Defendants submit the following facts:

1. The Philadelphia ~~edition~~ ^{edition} does not adopt the same title as asserted ^{as may be seen by comparing the two side by side;} ~~it will be seen at a glance~~ that the title, page, are entirely dissimilar; ~~to see~~

3

the title page of the said Philadelphia edition purports,
~~the work purports that it is Adams' Grammar, as it~~
~~should; just as an edition of Adams' Greek would~~
~~probably have. The House of Adams~~

2^d The same edition does, as is alleged, omit
~~It does omit~~ the English part of Adams' Grammar;
but not to follow the edition of Gould's; for the same
thing had before been done by others; among whom was
the Reverend Professor Hitch D.D. President
of Williams College, in ~~his~~ his fourth edition published
at Troy in 1844; which work, now out of print, ~~the~~
~~subscriber had constantly before him in preparing his~~
~~edition~~ was constantly referred to in preparing
the said Philadelphia edition -

3^d These Defendants admit, that to the same edition are
~~It is true that the subscriber has professed, looks~~
for Latin Pronunciation as in ^{the} Boston edition of Gould's;
but it is not true that he copied any part of them ^{were copied}
from Gould; ~~the copy was taken~~ chiefly from Walker's Key,
and from a small sheet printed by the late Professor
Chamberlain of Dartmouth College for the use of his
classes; ~~the~~ ~~to these~~ both have gone to the same main
source, Walker's Key; but the ^{editor of the said Philadelphia edition} ~~subscriber~~ drew more extensively,
and made ~~in~~ ~~though~~ a much better arrangement.

4. These Defendants do not deny, that the said last mentioned Editor
~~It is true that the subscriber has marked~~ "the quantities
of the, conultimate vowel in the Latin words throughout his
~~the~~ work, when the quantity was not ascertained by being
placed before another vowel, a double consonant or
two

two single comments. ~~But what great merit or originality there is in this he is at a loss to conceive~~ In most instances it had been done before, in the Edinburgh Edition and in Dr. Forster's of 1814; and these Defendants deny that there is any originality or ground of claim to a copy right therefor.

5. ~~These Defendants admit, that there are, in the said Philadelphia edition, in some instances, instances of words similar to those in Gould's Edition; but they deny that these instances have any claim to originality or exclusive right.~~

6. ~~These Defendants admit, that the editor of the said last mentioned edition has declined, as any tutor might do, the Latin words, given as paradigms, with the English; and this, because they could not be declined rightly but in one way. But this is done in the New-York edition of Adams' and in prior works.~~

- ~~These Defendants contend and maintain, that as to the grounds on p. 17 the first part of the remarks are entirely new, in the latter part, as they aver, Gould has taken his views on the subject from the Edinburgh edition of Adams' and from Hunt's Latin Grammar, p. 6.~~

- ~~They admit, that said ~~Editor~~ Editor has arranged the terminations of the second declensions in columns, and in doing so has followed others; among which is the New York Edition edited by Robert Patterson.~~

7. ~~They admit, that he has taken the word "concluses" as declined in Smith's N. Hampshire Latin Grammar page~~

thirty five.

They admit, that he

10. ~~He~~ has declined, as Gould has done, the words "opus" &c., as had before been done by others; ~~but this is not~~

~~trifling to waste ink upon~~ for which cause, as well as for its unimportant character, this cannot be considered as entitled to a copy-right.

11. ~~The Defendants allege, that in said Philadelphia edition~~
~~of the New York edition the article on Perseus, page~~
~~100, was copied from the copy of~~
~~Gould's; that the same was taken~~
~~from~~ from Van V. page forty five and Smith, page thirty three - from which said Gould probably also derived the same.

- 13- They do not deny, that the English is given of certain Latin adjectives, as alleged, on page 68, of ~~the~~ ~~that~~ ~~of~~ ~~the~~ ~~Philadelphia edition~~; but they deny, that the same adjectives on page 68. he is at a copy to secure of the subject of a copy right.

14. They admit, that the adjective prudens ~~has~~ is declined, after other grammarians, and, ilus on page 72 ~~has~~ is declined ~~after~~; as others had done. ~~instead of learning it~~ ~~the question before~~ long before the publication of said Gould's Grammar.

15. They aver, that the trifling alterations mentioned in the verbs are from the New York edition of 1831

They deny, that

16. The rules in the formation of the tenses are ~~not~~ taken from Gould but from the ~~subscribed~~ ~~first~~ ~~part~~ in Latin ~~grammar~~ published by Charles D. Cleveland, the ~~glance~~ ~~with~~ ~~some~~ ~~from~~ ~~which~~ ~~the~~ ~~formation~~ ~~was~~ ~~improved~~ editor of said Philadelphia edition - & are improved in said edition -

17. They aver, that the verb Possum, as a paradigm, ~~is~~ is from Gould only. So far as Gould's is from Smith's N. Y. Latin Grammar

Grammar

Grammar of 1806, page 61. — — — — —
 18 They ~~over~~ ^{are} ~~of~~ ^{maintain}, ~~that~~
 The English alterations of Adams Poles 50, 51, 52,
 and 56 have no claim to originality, being substanti-
 ally to be found in preceding works.

10
1
They deny
~~that a highlander & son~~ that the "pair" list in
the Poetids, which are in Gould's - but not in the
Edinburgh edition ~~the selection~~ are taken from Gould; but
~~that is so~~. They are from the same source - from
which Gould took his, ^{viz.} Grant's Latin Grammar - and
Baron's Latin Prose, as may be seen by a reference
to those books. - For the two and a half lines
on page 256 of Gould's See Grant's Grammar page 361 -

For the	5 lines on page	25 th	See Hunt's Gram	p	363, 364, 365, & 6.
"	"	2	"	"	367, 368
"	"	3	"	"	371
"	"	4	"	"	389
"	"	14	"	"	356, 357 & 358.

And finally ~~the substance~~ as to all other charges of infringement of copy right ^{they} ~~they~~ that any of the alleged improvements of Goulds Grammar have any claim to originality, it may be found substantially ~~and are not entitled to that~~ ~~new subject for which the substance~~ in preceding works, ~~protection of a copy right by law.~~

And, for the purpose of showing the material differences
between the two works in question in this case,
they have been set out at the bottom of the
pages of the report, and are subject to the con-
sideration of the Board here, the following
distinguishing characteristics of the said *Philosophia* edition

as published by the said Cleveland, the editor thereof viz.

1. The said Editor has
corrected the Latin for the monumentum of Luther in the
Heterodoxia Remarks, and by observations first and sixth
on page eleven, observations thirteen and sixteen
on page twelve; and by greatly enlarging from Valles's
observations three, eight, nine and ten, on the same page.
2. He has added
the first paragraph on Gender page 17, which is now, it is
not to be found in any other edition of this grammar.
3. He has thrown out the long lists of regular nouns
found in all other editions of R. and in their place
has substituted lists of irregular nouns.
4. For the list of nouns that are Masculine, found
in Gould on page 18, and in his edition page 19, he
has added the following words to it; Bos, Bovus,
Equus, Vespa, Aranea, Porcus, Praesul, Satellites and
Verna.
5. He has added on pages 19 & 20 three entire new lists
of nouns, that present some peculiarities.
6. He has made an entire new division of Nouns
and cases, as will be seen on pages 20 and 21,
and has on page 21 introduced entire new matter,
consisting of about five lines on the process & significations
of the Noun cases.
7. To the exceptions of nouns of the first Declension, that
form the dative and ablative plural in abul, he has
added explanatory and limiting observations;
and to the

70
He has added
the first paragraph on Gaudiss page 17^{which} is new, & is
not to be found in any other edition of the grammar.

3rd He has thrown out the long lists of regular numbers found in all other editions of H. Land's and in their place has substituted lists of irregular numbers.

~~4th~~ For the list of of nouns that are Masculine, found in Gould on page 18, and in his edition page 19. he has added the following words to it; Bos, Coubors, Eul, Hostes, Inicus, ~~Par~~ Parous, Praesul, Satellites and Verna.

5th He has added on pages 19 & 20 three entire new lists of nouns, that present some peculiarities.

6th He has made an entirely new division of Numbers and cases, as will be seen on pages 20 and 21, and has on page 21 introduced entire new matter, consisting of about five lines on the process & significations of the several cases.

To the exceptions of nouns of the first Declension, that form the dative and ablative plural in ibus, he has added expletives and limiting observations; and To the

to the General Rules of Declension on page 22^d he has added three new rules.

8. He has added exception 5th on page 26 to nouns of the second declension
9. On page 2^a he has declined Deus in full
10. On page 45 he has added exception in the vocative singular; and on page 47 exception 3^d in the dative plural.
11. On pages 48, 49 50 and 51, four consecutive pages, he has given a list of nouns of the third declension, that present some peculiarity in the formation of the ~~oblique~~ singular, and nominative and genitive plural.
12. On page 54 he has added two observations under nouns of the 5th declension, giving a number of classical citations.
13. On page 55 he has given a synopsis of the Five Declensions.
14. The lists of Defective nouns on pages 58 and 59 he has greatly improved, and enlarged by the following words - hominum, frugis, caestis, latis, rotis,
Eyes

Erupes, Despicatus, Ludeficatus, Anupsum, Decemplacum,
 Filicem, Procreum, ~~France~~, Rugos, Hortatus, Pissui,
 obtentus, Tabum, Has, nefas, Albus, Cere, Salus, Nemo,
 Localis, Quatus, Quatus.

15. add ~~three~~ ^{to the fourth} list of nouns on page 60 he has
~~added twenty nine~~ ^{to the first on page 61 he has added twenty nine};
 to the seventh list on page 61
 he has added eleven; to the Eighth list on page 61 and
 62 he has added four; to the ninth list on page 62
 he has added four; to the tenth list on page 62 and 63
 he has added four.

16. The eleventh, twelfth, thirteenth and fourteenth lists
 of irregular nouns on pages 63, 64 and 65, are entirely new,
 and contain two hundred and eleven new nouns.

17. The remarks on irregular nouns on page 60, containing
 twenty two lines, are entirely new.

18. The explanations of ablatives in the formation of the
 Ablative singular; on page 72, are much enlarged
 from the Edinburgh edition of Adam.

19. The three paragraphs on page 70 on the Cardinal
 and Distributive numbers are also new.

20. The formation of the degrees of Comparison on page 78
 he has arranged differently, and ~~as he thinks~~ ^{improved}

21. The list of adjectives that want the Superlative on
 page

page 80, is greatly enlarged.

22. On page 81 he has introduced a list of adjectives twenty seven in number that are irregular and unusual in their comparison.
23. The 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th and 21st observations on the pronouns on pages 87 and 88 are entirely new.
24. The remarks on the tenses of the Verbs on pages 90 and 91 comprising more than a page are added to the Edinburgh Edition as are also the remarks on persons on page 92.
25. The arrangement of the Imperfect and Common Verbs to follow verbs of the fourth conjugation is new.
26. The formation of the tenses on pages 117, 118 & 119 are greatly enlarged and elucidated beyond that found in any other edition of Adam's Grammar.
27. He has rejected entirely the Verbs of ~~Boetius~~ Adam of 1st, 2^d, 3^d & 4th conjugation, to be found in Gould's edition from page 121 to 143, and instead of those twenty two pages, has substituted fifty three pages from page 123 in his edition to page 176. ~~In any classical edition.~~ It is well known, that the Supine rarely occurs in

in the Latin Verb, and that there are few verbs that have all the participles of both voices.

~~But~~ Adam has, in his grammar conjugated all the verbs with the Supine and in hundreds and hundreds of instances where that is not to be found; and ~~Good~~, in his edition, by taking the Edinburgh Edition, without one single alteration or addition, has thus perpetuated the thousand and one errors of Adam; ~~and Cleveland~~ ^{the} ~~has~~ ^{has} ~~repeated~~ ^{repeated} ~~the~~ ^{the} ~~same~~ ^{same} ~~errors~~ ^{errors} ~~in~~ ⁱⁿ ~~the~~ ^{the} ~~edition~~ ^{edition} ~~of~~ ^{of} ~~Adam~~ ^{of} ~~Adam~~ ^{Adam} ~~plan~~ ^{plan} ~~in~~ ⁱⁿ ~~toto~~ ^{toto}, and given lists of verbs, with the parts that are to be found in the Classics with the Classical authorities. In Dr. Adam's Grammar ~~he~~ ^{it} ~~has~~ ^{there} is not one single reference to Classical authority, while in the ~~edition~~ ^{and Philadelphia} ~~of~~ ^{the} ~~Subscription~~ ^{Subscription} there are in the first conjugation, seven hundred and seventy four; in the second conjugation four hundred and five. In the third conjugation, one thousand one hundred and forty seven, and in the fourth conjugation three hundred and sixty; making in all the thousand six hundred and eighty six citations of the Classics and old Grammarians, to support the parts of the verb that are introduced.

20. To the irregular and defective verbs from page 156 to page 188, the ~~same~~ ^{same} ~~Cleveland~~ ^{Cleveland} has made many additions; supported the parts, that are found, by three hundred and forty two Classical citations; and in the remarks on the verbs, pages 193, 194, 195 (not found in our other edition of Adam's Grammar) he has introduced eighty two more citations from the Classics; making in all three thousand

thousand one hundred and ten classical
 "References, not found in any other edition of the
 same work.

29. To the list of redundant Verbs, pages 140,
 141 & 192, he has made large additions.

In Gould's edition the number of redundant
 verbs is eighty three; but in the ^{1812 Philad. 4th edition} ~~London 1812~~ ten
 "hundred and ten," making one hundred and twenty
 seven verbs more.

30. The Propositions ~~the subordinates~~ are transferred
 from the syntax to their proper place, in Etym.
 ymology; but instead of allowing them but three
 pages and a half he has given eight and a half
 pages to them. See pages 202, 203, 204, 205,
 206, 207, 208, 209, 210

31. To the "Propositions in Compositions," which are
 treated so slightly in the Edinburgh and Gould's edi-
 tions (occupying but one third part of a page)
 the ^{page 216} ~~subordinate~~ has devoted particular attention,
 giving to them more than three pages; as will
 be seen by reference to pages 210, 211, 212 & 213.

32. The "Significations of Words" under the head of —

1. "The Significations not to be adopted" and —
2. "to facilitate the knowledge of the true

meaning

incency of Birds" is entirely new - See, pages 215,
216, 217, 218, and 219

33. The four paragraphs on page 221, occurring near the third line upon simple and compound sentence, are entirely new.

34. The four observations under Rule 1st occupying 16 lines are also new.

35. The observation (9) under Rule 2^d on page 223 occupying 8 lines is also new.

36. The three observations (16), (17), & (18) under Rule third occupying 17 lines are also new.

37. The observation 25 under rule 4th occupying five lines, is also new.

38. The five observations (34), (35), (36), (40) & (41) occupying 18 lines are also new.

39. The observation (51) under Rule 7th occupying 9 lines is also new.

40. The observation (58) under Rule 8th of 8 lines is also new.

41. & also the following observations are entirely new and not to be found as these ^{dependents very} ~~subscribers~~ believe, in any

any other edition of Adams Grammar; viz: The observation (64, under Rule 9th of Clines, the list of adjectives that are followed by a yone-
 tion, 73, under rule 10th of 84 lines on two pages. The three observations (76, 81, & 82) of 29 lines under Rule 11th - the two observations (99) (100) of 13 lines under Rule 13th the three observations (108, 109, 110) of 19 lines, under Rule 15th - the seven observations (121, 124 (123, (130) (131, (132) & (134) of 220 lines, under Rule 17th - the three observations (136) (137, 138) of 26 lines under Rule 18th, - the observation (146) of 3 lines under Rule 19th, " part of the observation (148) of 4 lines under Rule 20th - the greater part of the observation (181) of 8 lines under Rule 21 - the observation of 4 lines under Rule 22 - the observation (161) of 5 lines under Rule 23 - the two observations (183, 184) of 8 lines under Rule 24 - the two observations (187) (188) of 30 lines under Rule 28 - the two observations (220) (221) of 12 lines under Rule 30 - the two observations (227, 228) of 13 lines under the two observations (254) (255) of 9 lines under Rule 38 - the two observations (290) (292) of 18 lines under Rule 40 - the observation (277) of 4 lines under Rule (4) the Rules (42, and (43) of 9 lines - the five observations (342, 343) (344) (345) (346) of 65 lines under Rule 56 - the observation (377) of 9 lines

under

under Rule 62.

The ~~defendants~~ ^{author} aver, that

✓ ~~that~~ it will be seen, that while Gould's edition has but about 30 lines more in the Syntax than are in the Philosophical Edition, ^{said Philadelphia} the ~~edition of the~~ ^{said} ~~subscribers~~ contains about seven hundred lines more than any other ~~edition~~ ^{one}. And in

.. In addition to all this, the ~~said~~ ^{said} ~~Cleveland~~ ^{Cleveland} has numbered every paragraph in the Syntax of his edition, to facilitate reference.

42. The appendix to Syntax (to be found in Adams's Grammar and in Gould's without alteration) containing verbs with their meanings, the ~~subscribers~~ ^{said Cleveland} has entirely rejected being ~~in his estimation~~ ^{altogether} ~~altogether~~ ^{useless} ~~useless~~ ^{and out} ~~and out~~ ^{of place} ~~of place~~ ^{in a Grammar}.

43. Under Figures of Syntax. the ~~subscribers~~ ^{said Cleveland} has added to his edition the observations 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406 & 407 on pages 288, 289, and 290 consisting of ~ 88 lines.

44. Under "proverbs," the ~~subscribers~~ ^{he} has added observations 17, 21, 62, 63, 64, 65, 66, 76, 77, 80, 96 & 120

45. Besides this he has greatly enlarged the notes of Horace and the different kinds of Latin Verbs to be found on pages 319, 320, 321, 322, 323, 329

~~Hundred lines to the~~ Philadelphia edition

~~In conclusion the subscribers would only say
that he considered Adams's Latin Grammar in the
light of a chapin, and he trusts the time will
never come when any one book seller in the United
States will have the exclusive privilege of
publishing editions of the Latin grammar. That
the time will never come when it shall be decided
that the best edition possible of any matter had been
published and therefore that there can be no im-
provement that there must be no attempts made
at it. If such should be the decision the
present edition would be the prospect of the rising
generation~~

All which matters & things these
Defendants are ~~bound~~ ready & willing to
aver, maintain & prove, as this Honorable
Court shall direct; ~~and do shew that~~
and humbly pray & be hence dis mised
with their reasonable costs & charges in
this behalf most wrongfully sustained

Russell & Shattuck

by
Jno Pickering
their attorney



Gray's

or

the place that

—

the name of 20th

~~the name of 20th~~

==

the name of 20th

the name of 1838

the name of 1838

Circuit Court of U. S.
October Term, 1838

Harrison Gray & others in Equity
versus

John B. Russell & others

Ordered that this case be referred to George D. Curtis, Master in Chancery to examine and report the Coincidences and Differences of the Plaintiffs' and Defendants' Grammars, — how far the Author of the Defendants Grammar has used the Plaintiffs' Grammar in compiling his own, and how far he has made use of similar or the same materials, independently of any use, or with how great a use of the Plaintiffs' Grammar, and to report the evidence in the case, so far as either Party may request, and his conclusions thereupon, whether the whole or any part, and if any what parts of the Dfts Grammar are an infringement of the Plaintiffs copyright

By the Court,

Francis Bassett, Clerk

A true copy

Attest Francis Bassett Clerk.

ORDER

to the extent
to which the same is
the same as the
the same as the

==

District of Mass B.,
()

Circuit Court U.S.
Oct. 9. 1839

Hamden Gray et al in Equity v.
John B. Russell et al

like the Master's Report to the same is hereby approved & confirmed; & the Court do hereby direct & decree
This cause came on to be heard ~~and~~ at
this Term upon the bill and answer
like Master's report in the case, and
was argued by Counsel, on consideration
whereof it is ordered, adjudged & decreed
by the Court, that the Said Defendants
be, and they hereby are, severally ^{& separately} ~~con-~~
~~trained~~ ^{restrained} and enjoined from selling or
exposing to sale, or causing or being
in any way interested ^{or concerned} in the selling
or exposing to sale of, any copies
of Said Cleaveland's said edition
of said grammar, and that the
plffs. ^{do} recover their costs. And
the plffs. waiving ~~the~~ ^{as far as regards}
these Defendants the accounts prayed
for by the bill The Court do not
direct any accounts whatsoever in
the premises —

Dece

UNITED STATES OF AMERICA.

Massachusetts District, ss.

To John Brooks Russell, Lemuel
Shattuck of Boston in said District of
Massachusetts, & John D.W. Williams
of Newbury in said District, Bookkeepers
doing business under the name and
style of Russell, Shattuck & Company

GREETING.

FOR CERTAIN CAUSES offered before the Circuit Court of the United States of America, for
the first Circuit, within and for the Massachusetts District, as a Court of Chancery, We COMMAND AND STRICTLY
ENJOIN you, laying all other matters aside, and notwithstanding any excuse, that you personally be and appear
before our said Circuit Court, ~~at the Rules~~ to be holden at the Office of the Clerk of our said Court, in Boston
in said District, on the ~~first Monday~~ *fifteenth* day of *October* next,
to answer concerning those things, which shall then and there be objected against you by

Harris or Gray, James Brown & Charles Brown
all of Boston aforesaid, all being Citizens of the
United States, Bookkeepers, doing business under the
name, style & firm of Hilliard, Gray & Co, in
their Bill of Complaint

and to do further and receive that which our said Circuit Court shall consider in this behalf. And this you are
in no wise to omit, under the penalty of *Five hundred* dollars
And have you there this writ.

Witness the Honorable *Roger B. Taney* at Boston,
this *twenty fifth* day of *August* A. D. 18*56*, in
the *Sixty first* year of the Independence of the United States of America.

Francis Barrett Clerk.

United States of America }
Massachusetts District Ct. } Boston August 23. 1836.

By virtue of the within
process these summoned the within named
John Brooks Russell Lennel Hulluck and John
D. W. Williams, by giving to each of them in hand
a true and attested copy hereof.

3 Ls: \$6.00

3 Cps: 3.00

1 Exec: \$1.00

\$10.00

Al. S. Deputies
Forster P. J. Marshes.
- - - - -

Subpoena

11/56
Gang what is that

May District Js.

Circuit Court of US
May Term 1844

(Harrison Gray et al) in Equity
vs
John B. Russell et al

These repliants having & reserving to them
selves all & all manner of advantage of
exception, which may be had & taken to the
manifest errors, uncertainties & insufficiencies of
the answer of Said Defendants for replication
thereunto say: that they do well aver, main-
tain & prove their said bill to be true, certain
& sufficient, in the law to be answered, & that
the said Defendants & that the answer is very
uncertain, evasive, & insufficient, in the law
replied unto by the repliants without that that
any other matter, or thing in the said answer
contained material or effectual, in the law to be
replied unto & herein thereby well & sufficiently
replied unto, Confessed or avoided, traversed or denied,
is true, all which matters & things these repliants
well ready to aver, maintain & prove as this Honorable
Court shall direct, & humbly pray as in & by
their said bill they have already prayed
by Phillips & Robins
Plffs Solicitors

By the way at 11 P.M. & 12.40
~ *Staphylinidae* ~

June 22. 1836

Yours -

Circuit Court of U.S. Dist.

May Term 1838

Comes now before the Court the following

John B. Russell & others

vs
James B. Russell & others
In regard that it in a hearing it
should appear that on questions
to the answer, the latter would be in-
tended to, either denying, admission
settlement or agreement by latter
material to a decision on the
merits & to the rights remaining
the latter should be allowed to
remove their answer accor-
dingly, notwithstanding the
objection being filed & the
cause having proceeded to
a hearing
Jm Pickens for Defts

5
1. 22. 1838. 1. 22. 1838.

1. 22. 1838.

June 22. 1838.

Miss

Gov. Court of V. & M. Mass. Dec. October T. 1839 -

C. A. No. 6.

Harrison Gray et al in Eq. vs J. B. Russell et al

Phs. Costs

Entry of Subpoena	7.00
1836 marshals fees	10.00
October T. Attendance 21 days	6.93
Cost	.50
1837	
May T. Attendance 29 days	9.57
Cost	.50
October T. Attendance 20 days	6.60
Cost	.50
1838	
May T. Attendance 25 days	10.25
Cost	.50
Order to return	.50
October T. Attendance 22 days	7.26
Order to Return to Master	.50
Copy of Order	.50
Cost	.50
1839	
May T. Attendance 24 days	7.92
Cost	.50
October T. Attendance 16 days	5.20
Filing Answer	
Attendance at Reply 39 days	12.40
300 Continuances at Reply	11.40
Recd. Copy of filing	
Enough fees to pay the Master	25.00
Amount due in Court	10.00
Fees of clerk	20.00
For the Deputies Report	20.00
	39.00
	<u>391.90</u>

Tened by

Phillips & Robins. Th. Counsel

3rd

James Bates H

Clk.

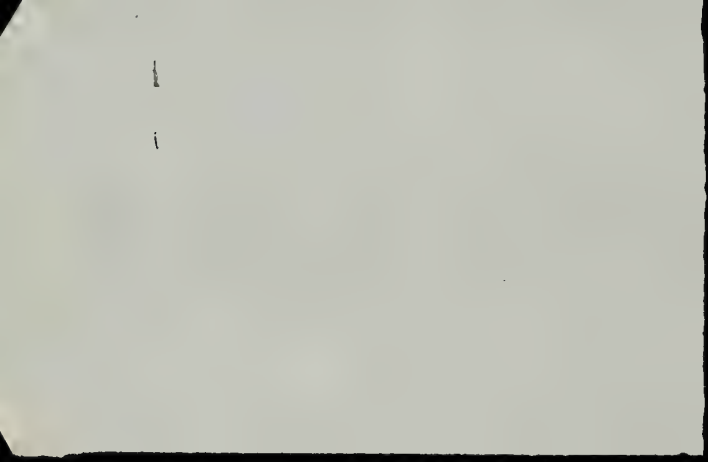
Costs

U. S. Circuit Court -

Holland, Gray & Co.

v.
Russell, Shattuck & Co.

It is agreed that the bill of
Holladay, being \$39. may be taxed
for Pickering for the f. 4



Nos.	Description of Papers.	No. of sheets or papers.	
		Plaintiffs or libellants papers.	Defendants or respondents papers.
1	<i>Ple</i>	4	
2	<i>Subpoena</i>	1	
3	<i>Answer</i>		5
4	<i>Replication</i>	1	
5	<i>Agreement of parties</i>	1	
6			
7			
8			
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BOSTON,

1832. Received of the Clerks of

Massachusetts District Court, by order of Court, the following Paper as described in
the within List, viz.: No.

(13) Gray v. Russell & Co.

LIST OF PAPERS.

Circuit Court S. D.
Oct 17. 1838

Harrison Gray & others in Equity

v

John B. Merrill & others

Ordered that this case
be referred to George T.
Curtis, Master in Chancery,
to examine & report the
similitudes & differences
of the plaintiffs & defendants
grammars, - how far the ^{author of the} plaintiffs
grammar has used the
plaintiffs grammar in
compiling his own; and
how far he has made
use of similar or the
same materials in-
dependently of any use

or with how great a use of
the Wells Grammar, & to
what the wisdom, ^{in the case} ~~and~~
is far as either party may
express, & his conclusions
thereupon, whether the
whole or any part, ^{yes,} ~~and~~ what
parts, of the said Grammar
are an infringement of
the Wells copyright.

By the Court
Francis Barrett, clk

Gray shd W Russell shd

Order appointing a
master -

Jan. 5th - 1839 -